
SENATE BILL No. 94

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-23; IC 34-30-2-10.5.

Synopsis: Bonds for vehicle dealers and wholesale dealers. Requires an applicant for a license to be a dealer or wholesale dealer of motor vehicles to secure a bond or renewal certificate for a bond. Provides that the failure to possess the bond is grounds for suspension or revocation of a dealer or wholesale dealer license. Specifies the circumstances when the surety makes indemnification for monetary loss.

Effective: July 1, 2004.

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January 6, 2004, read first time and referred to Committee on Transportation and Homeland Security.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 94

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-23-2-2.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2004]: **Sec. 2.5. (a) A registration application to be licensed as a**
4 **dealer or a wholesale dealer (other than an application made by a**
5 **dealer who is a franchisee selling only new motor vehicles or a**
6 **rental company selling used motor vehicles that have been rented**
7 **by the rental company) must be made in the manner required by**
8 **section 2 of this chapter and must be accompanied by:**

9 (1) a properly executed bond; or

10 (2) a renewal certificate for a bond.

11 (b) The term of a bond must correspond to the period of
12 issuance for the license as set forth in section 8 of this chapter. If a
13 renewal certificate is used, the bond is considered to be extended
14 in force for each succeeding year in the same amount and with the
15 same effect as an original bond.

16 (c) The bond must:

17 (1) be in the sum of fifteen thousand dollars (\$15,000);



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(2) have good and sufficient surety;
 (3) be approved by the bureau; and
 (4) indemnify or reimburse a purchaser, seller, or financier
 for monetary loss caused by:

(A) fraud;

(B) misrepresentation; or

(C) suspension or revocation of the license for the reasons
 set forth in section 14(a)(1) through 14(a)(6) of this
 chapter, whether the action or inaction was on the part of:

(i) the dealer;

(ii) the wholesale dealer; or

(iii) an employee, an agent, or a salesperson of the dealer
 or wholesale dealer.

(d) The total liability of the surety may not exceed the sum of the
 bond.

(e) The surety shall make indemnification or reimbursement for
 a monetary loss:

(1) after judgment based on the monetary loss set forth in
 subsection (c)(4) has been entered by a court; or

(2) after the license of the dealer or the wholesale dealer has
 been suspended or revoked by the bureau under section 14 of
 this chapter.

(f) If a judgment for a monetary loss has been entered by a
 court for a reason set forth in subsection (c)(4), the dealer or the
 wholesale dealer against whom the judgment has been entered
 shall make application immediately for a subsequent bond. The
 subsequent bond must:

(1) meet the requirements set forth in subsection (c)(2)
 through (c)(4) and subsection (d); and

(2) be in the sum of fifty thousand dollars (\$50,000).

(g) The surety:

(1) may cancel the bond after giving at least thirty (30) days
 notice in writing to the:

(A) bureau; and

(B) dealer or wholesale dealer;

(2) is not liable after cancellation under subdivision (1) for a
 monetary loss described in subsection (c)(4) accruing on the
 bond after the thirty (30) day period; and

(3) shall notify the bureau within five (5) business days after
 the surety receives notice of a cancellation or failure to renew
 from the dealer or wholesale dealer under subsection (i).

The surety's cancellation does not affect any liability accruing

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1 before the expiration of the thirty (30) day period.

2 (h) If the dealer or wholesale dealer has been notified under
3 subsection (g) that a cancellation has been requested, the dealer or
4 the wholesale dealer must:

5 (1) obtain a new bond that meets the requirements of
6 subsection (c); and

7 (2) file proof of the new bond with the bureau within the
8 thirty (30) day period set forth in subsection (g).

9 (i) A dealer or wholesale dealer that fails to renew or cancels its
10 bond shall notify the:

11 (1) surety; and

12 (2) bureau;

13 of the failure to renew or cancellation on or before the day of
14 expiration or cancellation of the bond.

15 (j) A person required to have a bond under subsection (a) may
16 not buy or sell a motor vehicle without a bond as set forth in this
17 chapter.

18 SECTION 2. IC 9-23-2-14 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) A license issued
20 under this chapter may be denied, suspended, or revoked for any of the
21 following:

22 (1) Material misrepresentation in the application for the license
23 or other information filed with the commissioner.

24 (2) Lack of fitness under the standards set forth in this article or
25 a rule adopted by the commissioner under this article.

26 (3) Willful failure to comply with the provisions of this article or
27 a rule adopted by the commissioner under this article.

28 (4) Willful violation of a federal or state law relating to the sale,
29 distribution, financing, or insuring of motor vehicles.

30 (5) Engaging in an unfair practice as set forth in this article or a
31 rule adopted by the commissioner under this article.

32 (6) Violating IC 23-2-2.7.

33 (7) Failure to possess a bond required by section 2.5 of this
34 chapter.

35 (b) Except as provided in subsection (d), the procedures set forth in
36 IC 4-21.5 govern the denial, suspension, or revocation of a license and
37 a judicial review. However, if the bureau denies, suspends, or revokes
38 a license issued or sought under this article, the affected person may
39 file an action in the circuit court of Marion County, Indiana, or the
40 circuit court of the Indiana county in which the person's principal place
41 of business is located, seeking a judicial determination as to whether
42 the action is proper. An action may not take effect until thirty (30) days

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1 after the commissioner's determination has been made and a notice of
 2 the determination served upon the affected person. The filing of an
 3 action as described in this section within the thirty (30) day period is
 4 an automatic stay of the commissioner's determination.

5 (c) Revocation or suspension of a license of a manufacturer, a
 6 distributor, a factory branch, a distributor branch, a dealer, or an
 7 automobile auctioneer may be limited to one (1) or more locations, to
 8 one (1) or more defined areas, or only to certain aspects of the business.

9 (d) A license may be denied, suspended, or revoked for violating
 10 IC 9-19-1. IC 4-21.5-4 governs the denial, suspension, or revocation of
 11 a license under this subsection. The bureau may issue a temporary
 12 order to enforce this subsection.

13 SECTION 3. IC 9-23-6-1 IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2004]: Sec. 1. A person **other than the**
 15 **employee of a surety who has failed to notify the bureau as**
 16 **required under IC 9-23-2-2.5(g)** who violates this article commits a
 17 Class B misdemeanor.

18 SECTION 4. IC 34-30-2-10.5 IS ADDED TO THE INDIANA
 19 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 20 [EFFECTIVE JULY 1, 2004]: **Sec. 10.5. IC 9-23-2-2.5 (Concerning**
 21 **a surety canceling a bond issued to a motor vehicle dealer or**
 22 **wholesale dealer).**

23 SECTION 5. [EFFECTIVE JULY 1, 2004] (a) **A person who has**
 24 **registered before July 1, 2004, in accordance with IC 9-23-2-8 for**
 25 **a license for the one (1) year period beginning in 2004 to buy or sell**
 26 **motor vehicles shall secure a bond required by IC 9-23-2-2.5, as**
 27 **added by this act, if the person is subject to IC 9-23-2-2.5(a), as**
 28 **added by this act, in order to conduct business after June 30, 2004.**

29 (b) This SECTION expires December 31, 2004.

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